

ORIGINAL

FILED

January 11 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

DA 09-0500

IN THE SUPREME COURT OF THE STATE OF MONTANA

LON PETERSON,

Plaintiff/Appellant and Cross-Appellee,

v.

ST. PAUL FIRE & MARINE INSURANCE COMPANY,

Defendant/Appellee and Cross-Appellant.

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

MOTION TO FILE AMICUS BRIEF

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The American Insurance Association hereby moves for leave to file an *Amicus Curiae* Brief pursuant to Rule 12(7)M.R.App.P. The grounds for this Motion are as follows:

1. The decision to permit an interested party to file an *Amicus Curiae* brief is within the Court's discretion, and courts have generally taken a liberal approach to granting these requests as “[t]here are no strict prerequisites that must be established prior to qualifying for amicus status an individual seeking to appear as amicus must merely make a showing that his participation is useful or otherwise desirable to the court.” *In re Roxford Foods Litigation*, 790 F.Supp. 987,997 (E.D.Cal.1991) (citation omitted).

2. *Amicus curiae* the American Insurance Association (“AIA”) is a leading national trade association representing some 350 major property and casualty insurance companies that collectively underwrote more than \$117 billion in direct property and casualty premiums in 2008, including almost 30 percent of the total auto (and total property and casualty) insurance market in this State. AIA members, ranging in size from small companies to the largest insurers with global operations, underwrite virtually all lines of property and casualty insurance. On issues of importance to the property and casualty insurance industry and marketplace, AIA advocates sound and progressive public policies on behalf of its

members in legislative and regulatory forums at the federal and state levels and files *amicus curiae* briefs in significant cases before federal and state courts.

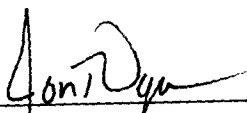
3. AIA's brief would be supporting the position of Appellee St. Paul Fire & Marine Insurance Company.

4. There are a number of issues in this appeal which could have a significant impact on the insurance marketplace in this State, the insurance company members of AIA, and the policyholders of those insurance companies, including what constitutes reasonably clear liability under the Unfair Trade Practices; an insurer's duty to advance pay policy proceeds without obtaining a release when questions of fact exist regarding the insured's liability; and the nature of the relationship between insurance companies and counsel retained by insurers to defend their insureds.

5. AIA's brief could be filed by January 20, 2010.

6. Counsel for Mr. Peterson has been contacted and does not oppose this motion.

Dated this 8th day of January, 2010.



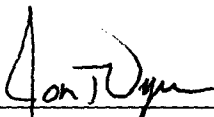
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the following counsel of record, by U.S. Mail, this 8th day of January 2010:

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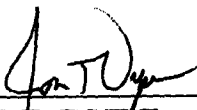


JON T. DYRE

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 27 of the Montana Rules of Appellate Procedure, I certify that this Motion is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double spaced; and has a word count of 363 calculated by Microsoft Word 2000, excluding the caption, certificate of service and certificate of compliance

DATED this 8th day of January 2010.



JON T. DYRE